



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

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UNLAWFUL TRADE PRACTICES AT BALLPARKS, RACETRACKS AND STADIUMS

Proprietors of Distilled Spirits Plants, Bonded Wine Cellars,
Taxpaid Wine Bottling Houses; Brewers, Importers, Whole-
sale Malt Liquor Dealers, Wholesale Liquor Dealers and
Others Concerned:

It has come to the Bureau's attention that certain industry members, primarily brewers and wholesale malt liquor dealers, are engaging in activities in violation of the Federal Alcohol Administration Act at ballparks, racetracks, stadiums, etc.

Section 5(a) of the Federal Alcohol Administration Act makes it unlawful, under the jurisdictional limitations set forth, for an industry member to require, by agreement or otherwise, directly or indirectly, or through an affiliate, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages, purchase any such products to the exclusion in whole or in part of products sold or offered for sale by other industry members in interstate or foreign commerce.

Section 5(b) of the Act makes it unlawful, under the jurisdictional limitations set forth, for an industry member, directly or indirectly or through an affiliate, to induce any retailer engaged in the sale of distilled spirits, wine, or malt beverages to purchase any such products from such person to the exclusion in whole or in part of products sold or offered for sale by other persons in interstate or foreign commerce by, among other things, furnishing, giving, renting, lending, or selling to the retailer any equipment, fixtures, signs, supplies, money, services, or other thing of value; or by paying or crediting the retailer for any advertising, display, or distribution service; or by requiring the retailer to take and dispose of a certain quota of any such products.

Recent inspections disclosed that violations have resulted from brewers, wholesalers, etc., engaging in activities similar in nature to the following:

- (1) An industry member contracts or deals directly with a concessionaire (retailer). The industry member pays for

signs, advertising in scorecards, on scoreboards and fences, or, provides the concessionaire with equipment, services, or other things of value.

(2) An industry member sponsors a ballclub which also operates the concessions. In this instance the ballclub is also the retailer. Usually, sponsorship or support consists of such things as buying season tickets, paying for advertising as described above, or providing other things of value such as renting and lending draft equipment or coolers.

(3) The industry member enters into a contractual agreement or other arrangement with a third party. The third party, a ballclub, or municipal or private corporation, not acting as a retailer, leases the concession rights but maintains control over the purchasing operations of the retailer. The business arrangements entered into between the industry member and the third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value. The third party, in consideration of the above, requires the retailer to purchase the industry member's products either exclusively or on a specified percentage basis.

The Bureau intends no interference with sporting or athletic sponsorship as long as the entity receiving such support is not a retailer, or is not in control of a retailer's purchasing operations. Likewise, the Bureau recognizes the benefits of selling at a stadium the products of the industry member sponsoring a ballclub, event, etc., and will therefore not object to such practice unless it is determined that purchases by the retailer are conditioned specifically on such sponsorship, or on payments, gifts, or services provided to either a third party or the retailer.

Industry members entering into arrangements similar to those described herein are cautioned that if such sponsorship, support, or the providing of services or other things of value, directly or indirectly, result in exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, and in the case of malt beverages if the state imposes similar requirements, a violation of the Act would ensue.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

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